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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,887	12/09/2003	Teppei Yokota	450100-02742.1	6181

7590 12/23/2004  
William S Frommer Esq  
c/o Frommer Lawrence & Haug LLP  
745 Fifth Avenue  
New York, NY 10151

EXAMINER

HINDI, NABIL Z

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/732,887	<b>Applicant(s)</b> YOKOTA ET AL.	
	<b>Examiner</b> NABIL Z HINDI	<b>Art Unit</b> 2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/09/03</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

In response to applicant's filing dated December 09, 2003. The following action is taken:

The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

The reissue oath/declaration filed with this application is defective because it fails to contain a statement that all errors which are being corrected in the reissue application up to the time of filing of the oath/declaration arose without any deceptive intention on the part of the applicant. See 37 CFR 1.175 and MPEP § 1414.

The original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

Claims 1-39 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

Applicant is notified that any subsequent amendment to the specification and/or claims must comply with 37 CFR 1.173(b).

Claims 28-29 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

The following limitations are not present in the reissue application and thus broader aspect related to the subject matter that applicant previously surrendered.

"recording means comprising a first security block having an encryption circuit and an authentication processing circuit, said first recording medium comprising a second security block".

"random-number generation circuit means for generating a session key to be shared with said second security block if said judgment formed from said judging means indicates that said first recording medium is allowed to be dubbed".

Wherein said first security block sends first authentication data to be said second security block which is generates second authentication data and adds this second authentication data to the first authentication data and sends both authentication data to said recording means to form said judgment”.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over W097/08695 (corresponding to US Pat# 6,226,247) in view Kuwahara et al (6,449,232). The independent claims merely read on copying a first disk into a second storage medium (another disk) wherein the copying process is controlled based on the disk type (whether the disk is copy protected or not, a single layer disk or not, a CD type medium, a DVD type medium ... etc). The disk type is determined based on a focusing servo signal. The primary reference discloses the use of copying apparatus having a first medium reading head 15, disk type determination means \*written on the disk as shown in fig 6B) having a copy permission or inhibiting data and whether the disk is a single or multi layered as cited in column 6 lines 1-9. Therefore copying of the disk into a second

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disk 2 would be inhibited if the disk were not permissible to be copied. However the primary reference does not disclose the use of a focusing (s-curved signal) to determined the disk type. The secondary reference discloses the use of an s-curved focusing servo signal in order to determined the disk type as shown in figs 27 and 28 for the purpose of time efficiency and increasing the data volume on the disk.

It would have been obvious to one skilled in the art at the time the invention was made to use the teaching of the secondary reference and modify the primary reference. Such modification of using a focusing servo to determine the disk type is well established in the art in order eliminate the need for writing the disk type on the disk and save time in accessing the TOC area too determine the disk type. Thus it would have been obvious to one skilled in the art at the time the invention was made to use the teachings of the secondary reference and modify the primary reference for the purpose of increasing the data capacity on the disk and time efficiency in determining the disk type.

With respect to the limitations of claims 29 and 35. The primary and the secondary reference disclose determining the disk type and whether the disk is a single layer or a multi layer.

With respect to the limitation of claims 30 and 36. The primary reference determines the disk layer (single/multi) and the read out data (reflectivity) also determines the disk type as cited in column 6 lines 1-9 as shown by element "CD ROM data" signal.

With respect to the limitations of claims 31 and 37. the primary reference and the secondary reference disclose the use of determining if the disk a ROM non-copy or a RAM copy permitted disk.

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With respect to the limitations of claims 32, 33 38 and 39. The claims merely read on a focusing servo signal to read a multi layer disk as cited in the secondary reference figs 27 and 28 and thus obvious to one skilled in the art.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6,070,799.

Any inquiry concerning this communication should be directed to NABIL Z HINDI at telephone number (703) 308-1555.

  
NABIL HINDI  
PRIMARY EXAMINER  
GROUP 2500  
2455